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6 Attorneys for defendants AMERICAN CASUALTY COMPANY OF READING, PA; and NATIONAL  
 7 UNION FIRE INSURANCE COMPANY OF PITTSBURGH, PA

8 IN THE UNITED STATES DISTRICT COURT  
 9 FOR THE NORTHERN DISTRICT OF CALIFORNIA

10 UNITED STATES OF AMERICA for the Use and  
 11 Benefit of WEBCOR CONSTRUCTION, INC. dba  
 12 WEBCOR BUILDERS; and WEBCOR  
 CONSTRUCTION, INC. dba WEBCOR  
 BUILDERS,

13 Plaintiffs,

14 vs.

15 DICK/MORGANTI, a joint venture; DICK  
 16 CORPORATION; THE MORGANTI GROUP,  
 17 INC.; AMERICAN CASUALTY COMPANY OF  
 READING, PA; NATIONAL UNION FIRE  
 18 INSURANCE COMPANY OF PITTSBURGH, PA  
 and DOES 1 through 10, inclusive,

19 Defendants.

20 AND ALL RELATED COUNTER CLAIMS  
 21 AND THIRD PARTY COMPLAINTS.

Case No. 3:07-CV-02564-CRB

**STIPULATION AND [PROPOSED] ORDER  
 FOR CONSOLIDATION**

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STIPULATION AND [PROPOSED] ORDER FOR CONSOLIDATION

Case No.: 3:07-CV-02564-CRB

Case No.: 3:07-CV-07-04180 EDL

LAW OFFICES

**Peckar &  
 Abramson**

A Professional Corporation

PERFORMANCE CONTRACTING INC,

Case No: 3:07-CV-07-04180 EDL

Plaintiffs (s),

vs.

DICK/MORGANTI, a California joint venture;  
DICK CORPORATION, a Pennsylvania  
corporation; THE MORGANTI GROUP, INC, a  
Connecticut corporation; AMERICAN  
CASUALTY COMPANY OF READING,  
PENNSYLVANIA, a Pennsylvania corporation;  
NATIONAL UNION FIRE INSURANCE  
COMPANY OF PITTSBURGH, PA, a  
Pennsylvania corporation; CONTINENTAL  
CASUALTY COMPANY, an Illinois corporation;  
and DOES 1-20,

Defendant(s).

# **I. PARTIES AND RELATED CASES**

The actions captioned above stem from the construction of the project commonly referred to as the GSA Federal Building located at 90 Seventh Street, San Francisco, California (the "Project"). On or about May 15, 2007, Plaintiff Webcor Construction, Inc. dba Webcor Concrete ("Webcor"), a subcontractor on the Project, filed an action in Case No. CV-02564-CRB against the general contractor for the Project, Dick/Morganti, a Joint Venture; Dick Corporation; and the Morganti Group, Inc. (collectively "Dick/Morganti"). Webcor also named as Defendants American Casualty Company of Reading, PA and National Union Fire Insurance Company of Pittsburgh, PA (collectively, the "Sureties"), each of which issued Miller Act payment bonds for the Project (the "Webcor Action"). Subsequently, the Sureties filed a Motion to Stay the Webcor Action on or about July 20, 2007, and on or about July 27, 2007, the Sureties filed a Third Party Complaint for Declaratory Relief against some of the other subcontractors on the Project, including Performance Contracting, Inc. ("PCI").

On or about August 15, 2007, PCI filed a separate action similar to Webcor's lawsuit in the U.S.D.C., Northern District of California, San Francisco Division, Case No. 3:07-cv-04180-EDL ("PCI Action"). PCI named Dick/Morganti, the Sureties, and Continental Casualty Company as Defendants. PCI also filed in the Webcor Action, in response to the Sureties'

1 Motion to Stay, a Request for Continuance of the hearing on the Motion to Stay, which had been  
 2 set for August 24, 2007. PCI's Request also included a request that the PCI Action be  
 3 consolidated into the Webcor Action. The Hearing on the Sureties Motion to Stay has been  
 4 continued to October 19, 2007. Counsel for the Sureties also represents Dick/Morganti and  
 5 Continental Casualty Company, who have not yet appeared in either action.

## 6 **II. COMMON ISSUES OF LAW AND FACT**

7 Counsel for PCI, Dick/Morganti, the Sureties, Continental Casualty Company, and  
 8 Webcor have agreed that the PCI Action and the Webcor Action involve common questions of  
 9 law and facts related to disputes arising from the Project, and therefore said actions are proper  
 10 for consolidation pursuant to Federal Rule of Civil Procedure 42.

## 11 **III. STIPULATION TO CONSOLIDATION**

12 Given the common issues of law and facts, as well as the benefits of judicial economy,  
 13 PCI, Dick/Morganti, the Sureties, Continental Casualty Company, and Webcor hereby  
 14 STIPULATE to consolidation of the PCI Action into the Webcor Action for all purposes.

### 17 **AGREED TO BY:**

18  
 19 Dated: September 17, 2007

DICK/MORGANTI

20  
 21 By: 

Raymond M. Buddie  
 Timothy E. Elliott  
 Rick W. Grady  
 Attorneys for DICK/MORGANTI

22  
 23  
 24 Dated: September 17, 2007

DICK CORPORATION

25  
 26 By: 

Raymond M. Buddie  
 Timothy E. Elliott  
 Rick W. Grady  
 Attorneys for DICK CORPORATION

1 Dated: September 17, 2007

THE MORGANTI GROUP, INC.

2  
3 By: 

Raymond M. Buddie  
Timothy E. Elliott  
Rick W. Grady  
Attorneys for THE MORGANTI GROUP,  
INC.

4  
5  
6 Dated: September 17, 2007

AMERICAN CASUALTY COMPANY  
OF READING, PA

7  
8  
9 By: 

Raymond M. Buddie  
Timothy E. Elliott  
Rick W. Grady  
Attorneys for AMERICAN CASUALTY  
COMPANY OF READING, PA

10  
11  
12 Dated: September 17, 2007

CONTINENTAL CASUALTY  
COMPANY

13  
14  
15 By: 

Counsel for CONTINENTAL  
CASUALTY COMPANY

16  
17 Dated: September 17, 2007

NATIONAL UNION FIRE INSURANCE  
COMPANY OF PITTSBURGH, PA

18  
19 By: 

Raymond M. Buddie  
Timothy E. Elliott  
Rick W. Grady  
Attorneys for NATIONAL UNION FIRE  
INSURANCE COMPANY OF  
PITTSBURGH, PA

20  
21  
22  
23 Dated: September 13, 2007

PERFORMANCE CONTRACTING, INC.


24  
25 By: 

J. Morrow Otis  
Steven L. Iriki  
Attorneys for PERFORMANCE  
CONTRACTING, INC.

1 Dated: September 17, 2007

WEBCOR CONSTRUCTION, INC.

2  
3 By:

  
Richard T. Bowles  
Kenneth G. Jones  
Attorneys for WEBCOR  
CONSTRUCTION, INC.

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7 **IT IS SO ORDERED.**

8  
9 Dated: September \_\_\_\_, 2007

By:

Honorable Charles E. Breyer

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11  
12 Dated: September \_\_\_\_, 2007

By:

Magistrate Judge Elizabeth D. Laporte

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LAW OFFICES

Peckar &  
Abramson  
A Professional Corporation